

SENATE BILL 849

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11r0164
CF HB 1025

By: **The President (By Request – Administration)**

Introduced and read first time: February 14, 2011

Assigned to: Rules

Re-referred to: Education, Health, and Environmental Affairs, February 18, 2011

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 23, 2011

CHAPTER _____

1 AN ACT concerning

2 ~~Natural Resources~~ **State Government – Land Acquisitions and Transfers of**
3 **Property**

4 FOR the purpose of requiring the Department of Natural Resources to negotiate land
5 acquisitions under certain circumstances; requiring the Department to obtain a
6 certain number of independent appraisals of a property before certain
7 acquisitions; requiring certain land acquisition contracts to be approved and
8 executed by the Board of Public Works; requiring the Department to give
9 written notice of potential land acquisitions to certain governmental bodies
10 under certain circumstances; authorizing certain governmental bodies to submit
11 written comments to the Department in a certain timeframe; requiring the
12 Board of Public Works to supervise certain expenditures for certain land
13 acquisitions; authorizing the Department to dispose of certain land under
14 certain circumstances; authorizing the Board of Public Works to exempt certain
15 projects from certain requirements; requiring the Department to adopt certain
16 regulations, including regulations developed in consultation with the
17 Department of General Services; making technical corrections; requiring the
18 Department of Natural Resources to prepare and revise a certain plan in
19 consultation with the Department of Planning; exempting certain land
20 acquisitions by the Department from certain land acquisition requirements;
21 altering a certain definition to ~~include~~ exclude certain land acquisitions by the
22 Department; exempting certain property transfers from certain appraisal
23 requirements; authorizing the Department to submit certain property
24 appraisals to the Board of Public Works; and generally relating to land

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 ~~acquisition and planning functions performed~~ acquisitions by the Department of
 2 Natural Resources and transfers of property among certain units of State
 3 government.

4 BY adding to
 5 Article – Natural Resources
 6 Section 1–109
 7 Annotated Code of Maryland
 8 (2005 Replacement Volume and 2010 Supplement)

9 BY repealing and reenacting, with amendments,
 10 Article – Natural Resources
 11 Section 5–903(e), 5–904(d), 5–906(b), and 5–1222
 12 Annotated Code of Maryland
 13 (2005 Replacement Volume and 2010 Supplement)

14 BY repealing and reenacting, without amendments,
 15 Article – Natural Resources
 16 Section 5–906(a)
 17 Annotated Code of Maryland
 18 (2005 Replacement Volume and 2010 Supplement)

19 BY repealing and reenacting, with amendments,
 20 Article – State Finance and Procurement
 21 Section 4–412, ~~5–7B–01(e)(1)~~ 5–7B–01(c), 10–304, and 10–305(b)
 22 Annotated Code of Maryland
 23 (2009 Replacement Volume and 2010 Supplement)

24 BY repealing and reenacting, without amendments,
 25 Article – State Finance and Procurement
 26 Section 10–305(a)
 27 Annotated Code of Maryland
 28 (2009 Replacement Volume and 2010 Supplement)

29 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 30 MARYLAND, That the Laws of Maryland read as follows:

31 **Article – Natural Resources**

32 **1–109.**

33 **(A) (1) THE DEPARTMENT SHALL NEGOTIATE THE ACQUISITION OF**
 34 **REAL PROPERTY FOR OPEN SPACE, RECREATION, CONSERVATION, AND OTHER**
 35 **PURPOSES UNDER THIS ARTICLE.**

1 **(2) THE DEPARTMENT SHALL MAKE EACH ACQUISITION UNDER**
2 **THIS SUBSECTION IN THE NAME OF THE STATE TO THE USE OF THE**
3 **DEPARTMENT.**

4 **(B) EXCEPT FOR REAL PROPERTY THAT IS ACQUIRED BY GIFT, BEFORE**
5 **ANY REAL PROPERTY IS ACQUIRED FROM A PRIVATE OWNER, THE DEPARTMENT**
6 **SHALL OBTAIN TWO INDEPENDENT APPRAISALS OF THE PROPERTY.**

7 **(C) (1) A CONTRACT FOR THE ACQUISITION OF LAND UNDER THIS**
8 **SECTION SHALL BE APPROVED AND EXECUTED BY THE BOARD OF PUBLIC**
9 **WORKS.**

10 **(2) AT LEAST 40 DAYS BEFORE THE BOARD OF PUBLIC WORKS**
11 **MAY ACT ON A LAND ACQUISITION UNDER THIS SECTION, THE DEPARTMENT**
12 **SHALL GIVE WRITTEN NOTICE OF A POTENTIAL ACQUISITION OF LAND:**

13 **(I) TO THE GOVERNING BODY OF THE COUNTY IN WHICH**
14 **THE LAND IS LOCATED; AND**

15 **(II) IF THE LAND IS LOCATED WITHIN A MUNICIPAL**
16 **CORPORATION, TO THE GOVERNING BODY OF THE MUNICIPAL CORPORATION.**

17 **(3) WITHIN 30 DAYS AFTER RECEIVING NOTICE UNDER THIS**
18 **SUBSECTION, THE GOVERNING BODY MAY SUBMIT WRITTEN COMMENTS TO THE**
19 **DEPARTMENT.**

20 **(D) THE BOARD OF PUBLIC WORKS SHALL SUPERVISE THE**
21 **EXPENDITURE OF ANY MONEY THAT THE GENERAL ASSEMBLY APPROPRIATES**
22 **FOR THE ACQUISITION OF LAND UNDER THIS SECTION.**

23 **(E) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE**
24 **DEPARTMENT MAY DISPOSE OF LAND OWNED AND MANAGED BY THE**
25 **DEPARTMENT AS CONSIDERATION FOR THE ACQUISITION OF LAND NOT OWNED**
26 **BY THE DEPARTMENT.**

27 **(2) IN IMPLEMENTING THIS SUBSECTION, THE DEPARTMENT**
28 **SHALL COMPLY WITH THE PROCEDURES ESTABLISHED UNDER TITLE 5,**
29 **SUBTITLE 3 AND TITLE 10, SUBTITLE 3 OF THE STATE FINANCE AND**
30 **PROCUREMENT ARTICLE.**

31 **(F) THE BOARD OF PUBLIC WORKS MAY EXEMPT PROJECTS UNDER**
32 **THIS SECTION FROM THE PROVISIONS OF THIS SECTION.**

1 **(G) (1) THE DEPARTMENT SHALL ADOPT REGULATIONS TO**
2 **IMPLEMENT THIS SECTION.**

3 **(2) THE REGULATIONS ADOPTED UNDER PARAGRAPH (1) OF THIS**
4 **SUBSECTION SHALL INCLUDE A SYSTEM FOR APPRAISAL REVIEW DEVELOPED**
5 **BY THE DEPARTMENT IN CONSULTATION WITH THE DEPARTMENT OF GENERAL**
6 **SERVICES.**

7 5-903.

8 (e) (1) The Department may, with the approval of the Board of Public
9 Works, use acquisition funds to make matching or refundable grants to land trusts for
10 the acquisition of interests or rights in real property for recreational or open space
11 purposes.

12 (2) [Notwithstanding the provisions of §§ 4-411 through 4-414 of the
13 State Finance and Procurement Article, subject] **SUBJECT** to the availability of funds
14 and in accordance with other provisions of this article regarding open space and
15 wildland areas, the Department may enter into agreements with a land trust for the
16 State to acquire title to or an interest or right in property owned by the land trust or
17 property on which the land trust holds an option or a contract to purchase.

18 (3) An agreement under this subsection shall be subject to approval by
19 the Board of Public Works under [§ 4-415 of the State Finance and Procurement
20 Article] **§ ~~4-107(c)~~ 1-109(C) OF THIS ARTICLE.**

21 5-904.

22 (d) (1) [Notwithstanding § 4-412 of the State Finance and Procurement
23 Article, the] **THE** Department and the Maryland Environmental Trust, with the
24 approval of the Board of Public Works, may:

25 (i) Use State project funds under Program Open Space to
26 contribute towards, or reimburse the Department of Transportation for, a portion of
27 the costs of acquiring any fee titles, restrictive covenants, or conservation easements
28 for which the Department of Transportation spends federal funds for transportation
29 enhancements, as defined in Title 23, United States Code, §§ 101(a) and 133; and

30 (ii) Acquire the fee titles, restrictive covenants, or conservation
31 easements from the Department of Transportation or any of its agents.

32 (2) State project funds under Program Open Space may be used to
33 contribute toward, or reimburse the Department of Transportation for, a portion of the
34 costs of acquiring any fee titles, as specified in paragraph (1) of this subsection, only
35 for acquisitions that are contained in the most current consolidated transportation
36 plan of the State.

1 5-906.

2 (a) Each local project shall conform to a comprehensive plan the local
3 governing body approves and have the approval of official planning agencies having
4 jurisdiction, including comprehensive planning agencies.

5 (b) Every acquisition and development project funded by the State in whole
6 or in part shall meet needs identified in the Maryland Land Preservation and
7 Recreation Plan prepared and revised every 6 years by the Department **IN**
8 **CONSULTATION WITH THE DEPARTMENT** of Planning [in cooperation with the
9 Department]. The document shall identify and recommend for State acquisition efforts
10 those resource areas facing the most intense or immediate development pressure.
11 These resource areas shall be designated as targeted areas. The document and any
12 changes to it shall be distributed to every local governing body.

13 5-1222.

14 [Notwithstanding the provisions of §§ 4-411 through 4-414 of the State Finance
15 and Procurement Article, subject] **SUBJECT** to the availability of funds and in
16 accordance with other provisions of this article regarding open space and wildland
17 areas, the Secretary may enter into agreements with the Nature Conservancy for the
18 State to acquire title to or an interest in property owned by the Nature Conservancy or
19 property on which the Nature Conservancy holds an option or a contract to purchase.

20 **Article – State Finance and Procurement**

21 4-412.

22 (a) Except as otherwise provided in this section, the Division exclusively
23 shall negotiate the acquisition of land[:

24 (1)] for any public improvement[; and

25 (2) for any State project funded under the State share of Program
26 Open Space].

27 (b) The Division shall make each State acquisition in the name of:

28 (1) the unit of the State government; or

29 (2) the principal department of the State government to which the
30 unit belongs.

31 (c) The Division is not responsible for acquiring land for a local project.

1 (d) (1) The Division is not responsible for developing any acquired land.

2 (2) Development of any land acquired under Program Open Space is
3 the responsibility of the unit of the State government.

4 **(E) THE PROVISIONS OF THIS SECTION AND §§ 4-413 THROUGH 4-416**
5 **OF THIS SUBTITLE DO NOT APPLY TO LAND ACQUIRED BY THE DEPARTMENT OF**
6 **NATURAL RESOURCES UNDER TITLE 1, SUBTITLE 1 OF THE NATURAL**
7 **RESOURCES ARTICLE.**

8 5-7B-01.

9 (c) (1) “Growth-related project” means only the items set forth below:

10 (i) any major capital project as defined in § 2-103.1(a)(4) of the
11 Transportation Article, except existing transportation facilities projects as defined in §
12 4-101(i) of the Transportation Article, project planning as defined in § 8-610(i) of the
13 Transportation Article, or initial project planning as defined in § 8-610(e) of the
14 Transportation Article;

15 (ii) funding by the Department of Housing and Community
16 Development for:

17 1. construction or purchase of newly constructed single
18 family homes or purchase of loans for newly constructed single family homes under
19 Title 4, Subtitle 2, Subtitle 3, or Subtitle 8 of the Housing and Community
20 Development Article;

21 2. acquisition or construction of newly constructed
22 multifamily rental housing under Title 4, Subtitle 2, Subtitle 4, or Subtitle 15 of the
23 Housing and Community Development Article; or

24 3. State-funded neighborhood revitalization projects
25 under Title 6 of the Housing and Community Development Article;

26 (iii) funding by the Department of Business and Economic
27 Development under any of the following:

28 1. the Maryland Industrial Development Financing
29 Authority, authorized under Title 5, Subtitle 4 of the Economic Development Article;

30 2. the Maryland Small Business Development Financing
31 Authority, authorized under Title 5, Subtitle 5 of the Economic Development Article;

32 3. the former Maryland Energy Financing Act,
33 authorized under former Article 83A, Title 6, Subtitle 4 of the Code, succeeded by the
34 Maryland Industrial Development Financing Authority;

1 4. the Economic Development Opportunities Program
2 Fund, authorized under § 7–314 of this article;

3 5. the former Maryland Competitive Advantage
4 Financing Fund, authorized under former Article 83A, Title 5, Subtitle 13 of the Code;
5 and

6 6. the Maryland Economic Development Assistance
7 Authority and Fund, authorized under Title 5, Subtitle 3 of the Economic Development
8 Article;

9 (iv) funding by the Department of the Environment, for any
10 project under:

11 1. §§ 9–1601 through 9–1605 (Water Quality Revolving
12 Loan Fund) of the Environment Article except for funding nonpoint source pollution
13 projects;

14 2. §§ 9–420 through 9–426 (Water Supply Financial
15 Assistance Program) of the Environment Article; and

16 3. the supplemental assistance program authorized
17 under Title 9, Subtitle 3, Part VI of the Environment Article; and

18 (v) except as provided in paragraph (2) of this subsection,
19 procurement or funding of projects by the Department of General Services for:

20 1. leases of property by the State governed by §§ 4–318
21 through 4–321 of this article; and

22 2. land acquisition governed by §§ 4–411 through 4–416
23 of this article; ~~AND~~

24 ~~(VI) PROCUREMENT OR FUNDING OF PROJECTS BY THE~~
25 ~~DEPARTMENT OF NATURAL RESOURCES FOR LAND ACQUISITION UNDER §~~
26 ~~1–109 OF THE NATURAL RESOURCES ARTICLE.~~

27 (2) “Growth-related project” does not include:

28 (i) projects by the Department of General Services for
29 maintenance, repair, additions, or renovations to existing facilities, acquisition of land
30 for telecommunications towers, parks, conservation and open space, and acquisition of
31 agricultural, conservation, and historic easements;

32 (ii) funding by the Department of Housing and Community
33 Development for any project financed with federal moneys used to purchase or

1 rehabilitate existing single or multifamily housing or project financed with the
 2 proceeds of revenue bonds issued by the Community Development Administration if:

3 1. the Secretary of Housing and Community
 4 Development determines that application of this section:

5 A. conflicts with any provision of federal or State law
 6 applicable to the issuance or tax-exempt status of the bonds;

7 B. conflicts with any provision of any trust agreement
 8 between the Community Development Administration and any trustee; or

9 C. would otherwise prohibit financing of an existing
 10 project, or financing provided to cure or prevent any default under existing financing;
 11 or

12 2. the revenue bonds are issued under a transfer of the
 13 Maryland State ceiling to the Administration by a county under Title 13, Subtitle 8 of
 14 the Financial Institutions Article; [or]

15 (III) ACQUISITION OF LAND BY THE DEPARTMENT OF
 16 NATURAL RESOURCES UNDER TITLE 1, SUBTITLE 1 OF THE NATURAL
 17 RESOURCES ARTICLE; OR

18 [(iii)] (IV) any other project, funding, or other State assistance
 19 not listed under paragraph (1) of this subsection.

20 10-304.

21 (a) This section does not apply to:

22 (1) property that is pledged to secure the payment of principal of or
 23 interest on revenue bonds; or

24 (2) real property that is owned or controlled by the State Highway
 25 Administration, UNLESS THE PROPERTY IS BEING TRANSFERRED TO THE
 26 MARYLAND TRANSPORTATION AUTHORITY OR TO ANOTHER UNIT IN THE
 27 DEPARTMENT OF TRANSPORTATION.

28 (b) (1) The Board may transfer any property, and all rights of physical
 29 custody and control over the property, from a unit of the Executive Branch of the State
 30 government to another unit of the Executive Branch of the State government.

31 ~~TRANSFERS~~

32 (2) ANY PROPERTY TRANSFERRED UNDER THIS SUBSECTION ARE
 33 IS EXEMPT FROM THE APPRAISAL REQUIREMENTS UNDER § 10-305(B)(2)(I) OF
 34 THIS TITLE.

1 ~~(2)~~ **(3)** Any property transferred under this subsection is subject to
2 the continuing general jurisdiction of the Board.

3 10–305.

4 (a) Subject to subsection (b) of this section, any real or personal property of
5 the State or a unit of the State government may be sold, leased, transferred,
6 exchanged, granted, or otherwise disposed of:

7 (1) to any person, to the United States or any of its units, or to any
8 unit of the State government, for a consideration the Board decides is adequate; or

9 (2) to any county or municipal corporation in the State subject to any
10 conditions the Board imposes.

11 (b) (1) (i) Except as provided under subparagraph (ii) of this
12 paragraph, this subsection applies to the sale, transfer, grant, or exchange of:

13 1. real property identified under § 5–310(c)(1) of this
14 article; and

15 2. State–owned real or personal property, funded in
16 accordance with an appropriation act of the General Assembly, that has an appraised
17 value over \$100,000.

18 (ii) This subsection does not apply to the following dispositions
19 of property identified in subparagraph (i) of this paragraph:

20 1. leasing the property; or

21 2. the sale, transfer, grant, or exchange of a corrective or
22 access easement on the property.

23 (2) The Board may not approve the sale, transfer, exchange, or grant
24 of property until:

25 (i) the Department of General Services **OR THE DEPARTMENT**
26 **OF NATURAL RESOURCES UNDER TITLE 1, SUBTITLE 1 OF THE NATURAL**
27 **RESOURCES ARTICLE** has submitted to the Board two independent appraisals of the
28 property that:

29 1. with regard to real property, consider the value of any
30 restrictive covenant that may be placed on the property; and

31 2. may not be publicly disclosed if the property is to be
32 sold at auction;

1 (ii) the following information has been submitted, by electronic
2 mail or facsimile and by certified mail, to the Senate Budget and Taxation Committee,
3 the House Appropriations Committee, and, for property that meets both criteria of
4 paragraph (1)(i) of this subsection, the Legislative Policy Committee:

5 1. a description of the property; and

6 2. if applicable, any justification for not selling,
7 transferring, exchanging, or granting the property in a manner that generates the
8 highest return for the State;

9 (iii) 45 days have elapsed since:

10 1. the information required by item (ii) of this paragraph
11 was received by the appropriate committees; and

12 2. the Board declared the property surplus; and

13 (iv) except for property sold under paragraph (4) of this
14 subsection, for property that meets both criteria under paragraph (1)(i) of this
15 subsection and for which the Board intends to approve a fee simple sale, transfer,
16 exchange, or grant, the General Assembly has approved the proposed disposition as
17 provided under paragraph (3) of this subsection.

18 (3) (i) Within 45 days after receiving the information submitted
19 under paragraph (2) of this subsection, the Legislative Policy Committee shall:

20 1. review the information and the public record created
21 by the Department of Planning for the property; and

22 2. A. approve the proposed disposition of the surplus
23 property and refer the property back to the Board for final disposition; or

24 B. refer the proposed disposition of the property to the
25 full General Assembly and notify the Board of the referral.

26 (ii) If the Legislative Policy Committee fails to take any action
27 under subparagraph (i)2 of this paragraph within the specified time period, the
28 proposed disposition shall be deemed approved by the Committee.

29 (iii) 1. If the proposed disposition of the surplus property is
30 referred by the Legislative Policy Committee to the full General Assembly, the
31 proposed disposition may not be approved by the Board unless it is approved by the
32 passage of legislation during the next legislative session of the General Assembly.

1 2. In any legislation passed in accordance with
2 subsubparagraph 1 of this subparagraph, the General Assembly may approve the
3 proposed disposition with or without conditions.

4 (4) If the Board has declared the property surplus, the Board shall sell
5 the property to the federal government, a local government, or a unit of federal or local
6 government for \$1.00, if:

7 (i) the government or unit has indicated its interest in
8 acquiring the land; and

9 (ii) a restrictive covenant is placed on the deed of transfer, in
10 accordance with § 5-906(e)(7) and (8) of the Natural Resources Article, that requires
11 the property to be maintained in a use that is consistent with its use at the time of
12 transfer.

13 (5) Any revenues derived from the sale, transfer, exchange, or grant of
14 property identified under paragraph (1)(i)1 of this subsection shall be deposited in the
15 Advance Option and Purchase Fund under § 5-904(b) of the Natural Resources
16 Article.

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 July 1, 2011.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.